

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA :
 :
 v. : File No. 2:99 CR 94
 :
Cheryl A. Burnette :

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed October 25, 2007. Petitioner's objections were filed November 19, 2007.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F.Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendations in full.

The petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255 (Paper 13) is **DENIED**. In addition, the motion for appointment of counsel (Paper 14) and motion for enlargement of time (Paper 18) are **DENIED** as moot.

Pursuant to Fed. R. App. P. 22(b), a certificate of

appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right. Furthermore, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could have been resolved differently, or which deserve further proceedings. See e.g., Flieger v. Delo, 16 F.3rd 878, 882-83 (8th Cir.) cert. denied, 513 U.S. 946 (1994); Sawyer v. Collins, 986 F.2d 1493, 1497 (5th cir.), cert. denied, 508 U.S. 933 (1993).

Furthermore, it is certified that any appeal taken *in forma pauperis* would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

THIS CASE IS CLOSED.

Dated at Burlington, in the District of Vermont, this 27th day of November, 2007.

/s/ William K. Sessions III
William K. Sessions III
Chief Judge
U.S. District Court